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10/085,894	02/28/2002	Jason C. Brooke	8266-0783	3459

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,894

Applicant(s)

BROOKE ET AL.

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 8, 9, 20-22 and 24-34 is/are rejected.
- 7) ☒ Claim(s) 7 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-9 and 20-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross, Jr. (U.S. Patent No. 2,663,048) in view of Lawrence (U.S. Patent No. 746,636). Ross discloses a caster assembly comprising casters (40, 41) that are coupled to support shafts (33, 34), support bars (30, 32) rigidly attached to the support shafts and pivotally attached to frame members (18), and locking bars (66, 67) that are movable between a first position (figure 2) in which locking bars (66, 67) engage the support bars, and a second position in which the locking bars are clear of the support bars. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.
3. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.
4. With respect to claims 9 and 20, Ross discloses the locking bars (66, 67) to include pedals (51) to pivot the locking bars between first and second positions. The pedal comprises a

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U-shaped member at an end of the locking bar. There is a U-shape in the pedal (51) near where it connects to the locking bar (near 50, in figure 5).

5. With respect to claim 21, the locking bars are rotatably coupled to the frame members (23).

6. With respect to claim 22, Ross discloses a caster assembly comprising a caster (40), a support shaft (33) coupled to the caster, a support bar (30, 32) rigidly coupled to the support shaft, and pivotally couple to a frame (at 31), and a locking bar (66, 67) configured to move between a first position in which a portion of the locking bar (66) engages the support bar (30, 32), and a second position in which the locking bar is clear of the support bar. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

7. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

8. With respect to claims 25-27, Ross discloses the locking bars (66, 67) to include pedals (51) to pivot the locking bars between first and second positions. The pedal comprises a U-shaped member at an end of the locking bar. There is a U-shape in the pedal (51) near where it connects to the locking bar (near 50, in figure 5). The locking bars are rotatably coupled to the frame members.

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9. With respect to claim 28, Ross discloses a caster assembly comprising a housing, a wheel (40) rotatably supported by the housing, a support shaft (33) coupled to the housing, a support bar (30, 32) coupled to the support shaft, and a locking bar (66, 67) configured to move between a first position in which the locking bar engages the support bar and a second position in which the locking bar does not engage the support bar. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

10. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

11. With respect to claims 30 and 31, the locking bar includes a pedal (51) by which the locking bar can be pivoted. The locking bar is also rotatably coupled to the frame member (23).

12. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Lawrence and Weismiller et al ("Weismiller", U.S. Patent No. 5,317,769). Ross discloses a caster assembly for a piece of furniture including a base frame (20-23). Ross further discloses a caster (40), a support shaft (33), locking member (66, 67), engagement member (all of 60, 61, and 35) and a flange (35) substantially as claimed by applicant. The support shaft is coupled for pivotal movement relative the ground (F) between a lowered position (figure 2) and a raised position (figure 1). The locking member (66, 67) moves between a first position (figures

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2 and 5) and a second position (figure 1) and allows the support shaft (33) to pivotally move in a first direction. The engagement member (60, 61) prevents the supports shaft from pivotally moving in a second direction. At least one flange (35) is coupled to the support shaft. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed having an intermediate frame, base frame, and support deck.

13. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

14. Weismiller teaches a hospital bed with a support deck (figure 1, upper lateral portion of 12, supporting the mattress), a base frame (14), and an intermediate frame (lower lateral portion of 12 to which flanges 64 are affixed). The intermediate frame moves vertically relative to the base frame. The base frame (14) of Weismiller is analogous to the base frame (20-23) of Ross. It would have been obvious to one having ordinary skill in the art at the time of the invention to use the casters of Ross on a bed having the structure taught by Weismiller, because such a structure is well known in the art, and it is known to put casters on beds. The combination of Ross, Lawrence, and Weismiller results in a bed having the structure of Weismiller, with the caster assembly of Ross mounted on the base frame. When the support shaft of Ross pivots in a first direction to the raised position (shown in figure 1 of Ross), the intermediate frame (lower

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lateral portion of 12 in Weismiller) will be lowered until the base frame (14 of Weismiller) engages the ground.

15. Claims 8, 24, and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Lawrence, as applied to claims 6, 22, and 28, respectively, and in further view of Kendall (U.S. Patent No. 4,417,738). Ross fails to disclose the support shaft to include a flange that engages the frame member and limits the pivotal movement of the support bars or support shaft in a second direction opposite the first direction.

16. Kendall teaches a retractable caster assembly comprising a caster (34), a support shaft (between 34 and 44), a support bar (48) and a flange (44) connected to the support shaft that engages the frame member (46) in order to restrict the travel of the lever means and engagement point. Restricting the movement also limits the pivotal movement of the support bar and support shaft. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross as taught by Kendall in order to restrict the travel of the caster assembly.

17. Claims 6, 22, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zikmund (U.S. Patent No. 1,058,837) in view of Lawrence. With respect to claim 6, Zikmund discloses a caster assembly comprising casters (10) that are coupled to support shafts (11, 12), support bars (13) rigidly attached to the support shafts and pivotally attached to frame members (1), and locking bars (20) that are movable between a first position (figure 2) in which locking bars (20) engage the support bars (13), and a second position (figure 1) in which the locking bars

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are clear of the supports bars. Zikmund discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

18. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zikmund's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

19. With respect to claim 22, Zikmund discloses a caster assembly comprising a caster (10), a support shaft (11, 12) coupled to the caster, a support bar (13) rigidly coupled to the support shaft, and pivotally couple to a frame (1), and a locking bar (20) configured to move between a first position in which a portion of the locking bar (20) engages the support bar (13), and a second position in which the locking bar is clear of the support bar. Zikmund discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

20. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zikmund's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

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21. With respect to claim 29, Zikmund discloses a caster assembly comprising a housing, a wheel (10) rotatably supported by the housing, a support shaft (11, 12) coupled to the housing, a support bar (13) coupled to the support shaft, and a locking bar (20) configured to move between a first position in which the locking bar engages the support bar and a second position in which the locking bar does not engage the support bar. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

22. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zikmund's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

23. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zikmund in view of Lawrence and Weismiller. Zikmund discloses a caster assembly for a piece of furniture including a base frame (1). Zikmund further discloses a caster (10), a support shaft (11, 12), locking member (20), engagement member comprising a flange (17) substantially as claimed by applicant. The support shaft is coupled for pivotal movement relative the ground between a lowered position (figure 2) and a raised position (figure 1). The locking member (20) moves between a first position and a second position and allows the support shaft (11, 12) to pivotally move in a first direction. The engagement member (13) prevents the supports shaft from pivotally moving in a second direction. At least one flange (17) is coupled to the support shaft.

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Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed having an intermediate frame, base frame, and support deck.

24. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zikmund's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

25. Weismiller teaches a hospital bed with a support deck (figure 1, upper lateral portion of 12, supporting the mattress), a base frame (14), and an intermediate frame (lower lateral portion of 12 to which flanges 64 are affixed). The intermediate frame moves vertically relative to the base frame. The legs of base frame (14) of Weismiller are analogous to the legs (1) of Zikmund. It would have been obvious to one having ordinary skill in the art at the time of the invention to use the casters of Ross on a bed having the structure taught by Weismiller, because such a structure is well known in the art, and it is known to put casters on beds. The combination of Zikmund, Lawrence, and Weismiller results in a bed having the structure of Weismiller, with the caster assembly of Ross mounted on the base frame. When the support shaft of Zikmund pivots in a first direction to the raised position (shown in figure 1 of Zikmund), the intermediate frame (lower lateral portion of 12 in Weismiller) will be lowered until the base frame (14 of Weismiller) engages the ground.

Allowable Subject Matter

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26. Claims 7 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The rejection of claim 7 by Ross has been withdrawn, because while Ross discloses locking bars (66 and 67) each locking bar does not affect the engagement of support bars of a pair of casters. The engagement is affect by the cams (60, 61) and shaft (47). Also, each locking bar (66, 67) only engages one support bar, not a pair of support bars, as recited in claim 23.

Response to Arguments

27. Applicant's arguments with respect to claims 6-9 and 20-31 have been considered but are moot in view of the new ground(s) of rejection. Specifically, applicant argues that Ross fails to disclose a bed frame, or support bars pivotally coupled to frame members of a bed frame. Examiner notes that these claims now stand rejected under 103(a) over the combination of Ross in view Lawrence. Lawrence is cited to show a caster assembly moveable between two positions for use on a bed.

28. Applicant also argues that Ross does not disclose locking bars moveable between a first position where they engage the support bars and lock the support shaft in a vertical position and a second position where the locking bars are clear of the support bars. In the previous Office action, examiner cited two different interpretations of Ross, one where shaft 47 was considered the locking bar, and another where stops 66 and 67 are locking bars. Upon further consideration, examiner considers only stops 66 and 67 to read on the claimed "locking bars". The stops, or

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locking bars, 66, 67, are clear of the support bars when they are positioned as shown in figure 1 of Ross.

29. Examiner notes that claims 6, 22, 29, and 32-34, are also rejected under the new rejection based on Zikmund, discussed above.

30. Applicant argues that the examiner has attempted to reorient the point of view of a previous examiner by re-evaluating prior art already expressly considered. Examiner notes the great care was taken in the when the previously allowed claims were rejected, and the rejections based on the previously considered art are proper, in that they either individually, or in combination, recite all of the limitations set forth in the rejected claims.

31. Applicant's arguments with respect to claims 32-34 have been considered but are moot in view of the new ground(s) of rejection. These claims now stand rejected by the combination of Ross, Lawrence, and Weismiller. Weismiller is cited to provide the specific bed structure present in the claims. The locking members 66 and 67 of Ross prevent the support shaft from pivotally moving in the first direction. The locking members 66 and 67 are not operably coupled to the support shaft in the position shown in figure 1 of Ross.

32. Applicant's arguments regarding the combination of Ross and Kendall are based upon the assertion that the claims rejected by the combination of Ross and Kendall are patentable.

Examiner respectfully disagrees with this assertion, as discussed above.

33. Examiner has given full faith and credit to the search and action of the previous examiner of this application. The allowability of these claims cited in the first Office action was noted because the claims overcame Ross when considered by itself. However, the current combination

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Ross and Lawrence meet all limitations present in claims 6, 8, 9, 20-22, and 24-31. For this reasoning, examiner considers the rejections of claims 32-34 to be proper also.

Conclusion

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

36. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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